

FINAL STATEMENT OF REASONS
DEPARTMENT OF FOOD AND AGRICULTURE
SUBMISSION OF REGULATIONS PERTAINING TO

Section 2303, 2309, AND 2311
Title 3, California Code of Regulations

Update of Initial Statement of Reasons/Policy Statement Overview

The initial statement of reasons/policy statement overview is still valid.

Summary of and Response to Objection or Comments Regarding the Regulations

No public hearing was held or requested. The summary of and response to the only comment received during the written comment period are as follows:

Comment:

The coupling of the phrase “phosphorous acid” with labeling requirement for “phosphoric acid” is ambiguous and therefore must be revised. The regulation as phrased does not indicate how a slow release product as defined under Section 2311(b) should be labeled. Regulation as proposed allows for the interpretation that a product containing phosphorous acid (which converts in the plant or soil into phosphoric acid) be labeled as “0%” total phosphoric acid because the phosphoric acid form of the compound is not contained in the product as packaged. Rather than allow for the possibility of the misunderstanding, we recommend the following revision (in italics) to the proposed amendment to Section 2309(a): “Products that contain phosphorous acid shall state on the label the percentage of “Total phosphoric acid” *either already existing in the product or available from conversion of phosphorous acid in the soil or plant when used.*”

Response:

The Department concurs that clarifying the proposed language could remove this ambiguity, but rejects proposed language by the commenter. This proposal implies that phosphoric acid already exists in phosphorous acid products, even though no available or total phosphoric acid is present. Only after further oxidation in the plant or soil is phosphorous acid converted to phosphoric acid. However, the Department believes that addition of the language “upon conversion of phosphorous acid” to Section 2309(a) indicates that the guarantee reflects the percent of total acid after conversion. Also, the Department is restating subpart (b) by replacing the language “that do not contain phosphorous acid” with “that contain phosphoric acid” to clarify that subpart (b) applies only to phosphoric acid products.

Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that these changes in Sections 2303 and 2309 and 2311 do not impose a mandate on local agencies or school districts. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

The cost impact of the changes in the regulation on private persons or businesses is expected to be insignificant.

Assessment

The Department has made an assessment that this amendment to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of business currently doing business within California.

Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.